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costs related to corrective work, even for deficiencies in his own performance.<sup>29</sup>

D. COST-REIMBURSEMENT TYPE CONTRACT.

The cost-reimbursement type contract provides for payment to the contractor of allowable costs incurred in performance of the work to the extent prescribed.<sup>30</sup> The cost-reimbursement type contract is suitable for use only when the uncertainties involved in the contract performance are of such magnitude that costs of performance cannot be estimated with sufficient reasonableness to permit use of any type of fixed-price contract. With the continuing utilization of the incentive contracts, there should be fewer applications of the cost-reimbursement type contract. Basically, under a cost-type contract, the contractor does not undertake the risks of performance inherent in a fixed-price contract.<sup>31</sup> The attorney should study carefully the cost principles of ASPR XV, discussed in Chapter XV *infra*, which are incorporated into the contract by reference under the Allowable Cost, Fee and Payment article.<sup>32</sup> Certain categories of costs are not reimbursable under ASPR XV; thus, a cost-type contract does not assure the contractor of full cost recovery, even where costs appear related to performance. In addition, the attorney should be aware of the implications of the Limitation of Cost article,<sup>33</sup> which is discussed in Chapter XV *infra*. It is important to note that in the event the costs exceed the estimate of costs established under the contract, and there is no authorization from the contracting officer to increase the

(29) ASPR 15-205.22(a) (reimbursement of material costs); ASPR 7-203.5, Inspection of Supplies and Correction of Defects article for cost-reimbursement type supply contracts.

(30) ASPR 3-405.1.

(31) See Keyes, *The Responsibility of a Government Cost-Type Contractor*, 22 Fed. B. J. 68 (1962).

(32) ASPR 7-203.4; the above discussion relates only to DOD and NASA procurements.

(33) ASPR 7-203.3.

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estimate of costs, the contractor is authorized to stop performance. If the contractor incurs a "cost overrun" in excess of the estimate of costs which has not been increased by the contracting officer, the contractor will normally incur all such excess costs without reimbursement from the Government, even though such costs are directly related to the work.<sup>34</sup> In limited cases, however, relief has been granted to a contractor who incurred a cost overrun without the requisite documentation to increase the estimate of costs because of the exigencies of the performance and the continuing requirements by the Government for the items being produced.<sup>35</sup>

The Government is reluctant to award a cost-type contract because it may be more costly than other methods of contracting. Under this type of contract the contractor lacks contractual incentives to control the allowable costs. The cost-reimbursement contract may be used only where there has been a specific determination and finding that such method of contracting is likely to be less costly than other methods or that it is impracticable to secure supplies or services required without the use of such type of contract.<sup>36</sup>

1. Cost Contract.

The cost contract is a cost-reimbursement type contract whereby the contractor receives no fee; it is appropriate for research and development work particularly with non-profit organizations or for facilities contracts.<sup>37</sup>

2. Cost-Sharing Contract.

The cost-sharing contract is a cost-reimbursement type contract whereby the contractor receives no fee and is reim-

(34) *Appeal of PRD Electronics, Inc.*, ASBCA No. 7713, 1962 BCA 13282 (1962); *Appeal of American Hydromath Corp.*, ASBCA No. 4505, 59-2 BCA ¶2465 (1959).

(35) *Appeal of Thiokol Chemical Corporation*, ASBCA No. 5726, 60-2 BCA ¶2852 (1960).

(36) 10 U.S.C. §2306(c).

(37) ASPR 3-405.2.